

MATTER OF MARIN
In Deportation Proceedings

A-14226796

Decided by Board March 10, 1970

Respondent's criminal convictions may be used as a ground for his deportation under section 241(a)(4) of the Immigration and Nationality Act even though at the time of the convictions respondent and the sentencing judge were unaware of the recommendation against deportation provisions of section 241(b)(2) of the Act.*

CHARGE:

Order: Act of 1952—Section 241(a)(4) [8 U.S.C. 1251(a)(4)]—Convicted of two crimes after entry: petty theft and burglary.

ON BEHALF OF RESPONDENT:

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(Brief filed)

ON BEHALF OF SERVICE:

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The special inquiry officer certified his order terminating deportation proceedings. We find the alien deportable.

The question is whether an alien's criminal conviction may be used as a basis for his deportation if he did not know that he could have made a timely application to the sentencing court for a recommendation against deportation pursuant to section 241(b)(2) of the Act, 8 U.S.C. 1251(b)(2). We answer the question in the affirmative.

Section 241(b) states that the law requiring the deportation of an alien convicted of a crime involving moral turpitude shall not apply (1) if the alien obtains a pardon, or (2) if the sentencing court "shall make, at the time of first imposing judgement or

* Affirmed. See 438 F.2d 933 (C.A. 9, 1971).